IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7877 OF 2005

Shri Kumar Krishna Naidu
and Ors. ...Petitioner
vs.
Ranjanwadi Shikshan Trust
and Ors. ....Respondents

P.B. Shah for the petitioner.
S.J. Rairkar for Respondent no.1(a), 1(d) and 1(e).
Mr. A.H. Palekar, AGP for respondent no.2.

CORAM: S.U. KAMDAR, J.

DATE : 25th November, 2005.

P.C. :

1. The present writ petition has been filed challenging the rejection of the amendment application to the written statement by the Joint Civil Judge, Junior Division, Wai. By an amendment the defendant sought to add the contention that the Otta, which is the subject matter of suit and against which the demolition order is sought is used for business purpose and

for carrying on business effectively. The learned Judge in the impugned order has held that it would amount to change of nature of cause of action and therefore the written statement cannot be granted. The order dated 21.9.2005 is unsustainable in the light of the fact that now it has been well settled held by various judgments of the apex court which has been followed by me in the judgment of **Lok Housing and Construction Ltd vs. Everest Industries Ltd reported in 2005 2 MSLJ 700** that the amendment can be liberally granted. In that view of the matter the order impugned herein is unsustainable. The order dated 21.9.2005 is dismissed. The application for amendment is granted. Amendment to be carried out within two weeks and the trial court is directed to proceed with the matter from that stage. Petition dismissed accordingly. No order as to costs.

sd/-

****